



DISTRICT ATTORNEY  
OF THE  
COUNTY OF NEW YORK  
ONE HOGAN PLACE  
New York, N.Y. 10013  
(212) 335-9000

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 3/12/08

# MEMO ENDORSED

## BY HAND

Honorable P. Kevin Castel  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 2260  
New York, NY 10007

Re: Keith Thomas Cox v. National R.R. Passenger Corp (Amtrak), et al.  
07 Cv. 7654 (PKC)

Your Honor:

March 11, 2008

*Pre-motion conference  
is waived. Motion is  
due April 11, response  
by Plaintiff is due May 16  
by ad resps. May 30 is due  
May 30 - Conference with  
Local Rule 12.1 is required  
S & of AERTD  
3-12-08*

This letter is sent in connection with the above-captioned matter, a pro se case brought pursuant to 42 U.S.C. § 1983 against, inter alia, New York County Assistant District Attorneys Michael A. Scotto and Gerard Monusky (“the ADA Defendants”). On behalf of the ADA Defendants, I plan to file a motion to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). In accordance with Your Honor’s Individual Rule of Practice 2(A), I respectfully request a pre-motion conference on this motion.

As against the ADA Defendants, plaintiff’s amended complaint raises a claim under § 1983 arising out of his 2006 arrests and ensuing criminal prosecutions in New York County (Am. Complaint, pp. 4-5). Since the only conduct of the ADA Defendants about which plaintiff complains involved their alleged malfeasance during the course of those prosecutions – e.g., that the prosecutors violated their Brady obligations (Am. Compl. p. 5) – it appears that plaintiff is attempting to press a claim sounding in malicious prosecution against these defendants. However, the law is clear that the ADA Defendants enjoy absolute immunity from any such cause of action. E.g., Imbler v. Pachtman, 424 U.S. 409, 431 n.33 (1976); Bernard v. County of Suffolk, 356 F.3d 495, 503-05 (2d Cir. 2004).

**DISTRICT ATTORNEY, NEW YORK COUNTY**

Hon. P. Kevin Castel

Page 2

March 11, 2008

Accordingly, I respectfully request that the Court order a pre-motion conference or, in the alternative, permit the ADA Defendants to file a motion to dismiss the complaint.

Thank you in advance for your consideration.

Respectfully submitted,



Michael S. Morgan (MM-9360)  
Senior Appellate Counsel  
Director, Civil Litigation Unit  
(212) 335-9371 (telephone)  
(212) 335-9288 (fax)

cc: Keith Thomas Cox, 07-A-4927  
Orleans Correctional Facility  
3531 Gaines Basin Road  
Albion, NY 14411-9199  
(by mail)